

## REMARKS

This Amendment is in response to the Office Action mailed July 24, 2002. In the Office Action, claims 23 and 24 were rejected under 35 U.S.C. § 102(b) and claims 14-21 and 25-40 were rejected under 35 U.S.C. § 103(a). Applicant respectfully disagrees with both rejections. Herein, claim 24 has been revised for clarification only and the dependency of claims 31 and 36 has been altered. These revisions are not directed to reasons for patentability, and hence, narrowed interpretation under *Festo* does not apply.

### I. § 102(B) REJECTION

Claims 23 and 24 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,265,153 (Ozawa). In order to anticipate a claim under §102(b), Ozawa must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Applicant respectfully traverses the rejection.

The Office Action alleges that the database of operating profiles is equivalent to the "terminal adapter" (6) and "store device" (2) implemented within the facsimile communication system (Figure 1) of Ozawa. *See Paragraph 2 of the Office Action*. Applicant respectfully disagrees. The store device (2) of Ozawa stores bitmap images (i.e., picture information) transmitted from or destined toward a facsimile terminal. *See column 3, lines 18-26 of Ozawa*. The terminal adapter (6) includes an error management section (64), but section (64) merely functions to uncouple the FAX (7) from the telephone network (5) in response to a power supply interruption and to produce an error report. Neither the terminal adapter (6) nor the store device (2) are adapted to compare the output from an electrically powered device (e.g., FAX 7 of Ozawa) to a database of operating profiles for the electrically powered device. Exemplary

embodiments of various operating profiles are discussed throughout the application and one embodiment is illustrated in Figure 12 of the subject application.

Since Ozawa fails to describe each and every limitation set forth in independent claim 24, Applicant respectfully requests that the §102(b) rejection of claims 23-24 be withdrawn.

## II. § 103(A) REJECTIONS

A. Claims 14-21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,902,881 (Janku) and Ozawa. Applicant respectfully submits that a prima facie case of obviousness has not been met. For instance, with respect to independent claim 14, the Office Action alleges that Junku describes a controller which includes a database of operating profiles of the device. *See Paragraph 4 of the Office Action*. Applicant respectfully disagrees because column 2, lines 10-18 as well as column 2, line 47 through column 3, line 6 describe credit card authentication and various peripheral components (e.g., cover 21 for scanner, card receiver 25, video monitor 31, etc.) associated with the stand-alone communications terminal (11). None of these peripheral components provides or even suggest their modification for storage or usage of *a database of operating profiles*. This fact alone warrants withdrawal of the § 103(a) rejection.

In addition, the Office Action is devoid of any support for an analog-to-digital converter as well as capabilities of the controller for receiving a digital form of the power output and comparing the output to power profiles. *See lines 9-10 of Claim 14*. As the Examiner is aware, when evaluating a claim for determining obviousness, all limitations of the claim must be evaluated. *See In re Fine, 873 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)*. The absence of explicit reference to a limitation cannot be construed as an affirmative statement that the limitation is in the reference. *See In re Evanega, 829 F.2d 1110, 4 USPQ2d 1249 (Fed. Cir. 1987)*.

Therefore, Applicant respectfully requests the Examiner to withdraw the outstanding § 103(a) rejection of claims 14-21.

B. Claims 25-40 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ozawa in view of U.S. Patent No. 4,312,035 (Greene). Applicant respectfully disagrees with the rejection and respectfully requests the Examiner to reconsider the rejection in its entirety.

With respect to independent claims 27, 29 and 30 as well as those claims dependent thereon, Applicant respectfully traverses the rejection and submits that a prima facie case of obviousness has not been made. For instance, as discussed above, Ozawa fails to describe or even suggest comparison of an output of an electrically powered device or software for comparing this output to a *database of operating profiles* as claimed. *Emphasis added.* Greene neither describes nor suggests such comparison (or comparison software). As previously stated and supported by the Federal Circuit holdings of *In re Fine* and *In re Evanega*, all limitations of the claim must be evaluated for determining obviousness, and thus, where there is no explicit reference or inherent teachings by either Ozawa or Greene of the use of profiles, withdrawal of the 103(a) rejection of claims 25-40 is warranted.

Hence, Applicant respectfully requests the Examiner to withdraw the § 103(a) rejection of claims 25-40.

VERSION WITH MARKINGS TO SHOW CHANGES MADE

1           12.   Cancelled.

1           13.   (Amended) The apparatus of claim 14 further comprising a switching device  
2 coupled between the electrically powered device and a power source, said switching device to  
3 control power to the device, responsive to the control signals.

1           14.   (Amended) An apparatus to monitor usage of an electrically powered device,  
2 comprising:  
3           a circuit coupled to the device to provide a power output of the device;  
4           an analog to digital converter coupled to receive the power output and convert the same  
5 to digital form; and  
6           a controller to receive a user input, process the user input by establishing communication  
7 with a remotely located device to request approval of a financial transaction, and generate  
8 control signals in response to receiving approval, the controller includes a database of power  
9 profiles of the device and receives the digital form of the power output, compares the digital  
10 form of the power output to the power profiles, and monitors the operation of the electrically  
11 powered device by suspending a charge for usage of the device if the digital form of the power  
12 output indicates a halt condition.

1           15.   The apparatus of claim 14 wherein the database of power profiles includes normal  
2 operation power profiles, idle operation power profiles, and halt condition power profiles.

1           16.   The apparatus of claim 14 wherein the controller continues to suspend charging  
2 for usage of the device as long as the device is in halt condition.

1           17.   The apparatus of claim 13 wherein the switching device is a relay.

1           18.   (Amended) The apparatus of claim 14 wherein the circuit is a current to  
2 voltage converter.

1           19.    (Amended)   The apparatus of claim 14 wherein the electrically powered device  
2 is a copier.

1           20.    (Amended)   The apparatus of claim 14, wherein the electrically powered device  
2 is a laser printer.

1           21.    (Amended)   The apparatus of claim 14, wherein the circuit is an ammeter.

1           22.    Cancelled.

1           23.    (Amended)   The method of claim 24, wherein the first condition is an abnormal  
2 condition.

1           24.    (Twice Amended)   A method comprising:  
2           monitoring an output of an electrically powered device; and  
3           comparing the output to a database of operating profiles for the electrically powered  
4 device to detect a first condition and to adjust billing charges when the electrically powered  
5 device is in the first condition, the database of operating profiles includes regular operating  
6 profiles and abnormal operating profiles, each abnormal operating profile to denote an abnormal  
7 condition.

1           25.    The method of claim 23, wherein the database of operating profiles includes a  
2 plurality of power usage profiles.

1           26.    The method of claim 25, wherein each power usage profile is a function of  
2 amperage and time.

1           27.    (Amended)   A method comprising:  
2           monitoring an output of an electrically powered device; and  
3           comparing the output to a database of operating profiles including a plurality of power  
4 usage profiles, each power usage profile being a function of amperage and time, for the

5 electrically powered device to detect an abnormal condition and to adjust billing charges when  
6 the electrically powered device is experiencing the abnormal condition being a paper jam.

1 28. (Amended) The method of claim 24, wherein the first condition is a  
2 catastrophic condition.

1 29. (Amended) A software module embodied for execution by a controller, the  
2 software module comprising:  
3 software to monitor an output of an electrically powered device; and  
4 software to compare the output to a plurality of power usage profiles for the electrically  
5 powered device to detect a first condition and to adjust billing charges when the electrically  
6 powered device is experiencing the first condition being a paper jam.

1 30. (Amended) A software module embodied for execution by a controller, the  
2 software module comprising:  
3 software to monitor an output of an electrically powered device; and  
4 software to compare the output to a plurality of power usage profiles for the electrically  
5 powered device to detect a first condition and to adjust billing charges when the electrically  
6 powered device is in the first condition, the electrically powered device is placed in the first  
7 condition in response to an abnormal operating condition.

1 31. (Amended) The software module of claim 40[30], wherein the abnormal  
2 condition is a paper jam.

1 32. The software module of claim 29, wherein each power usage profile is a function  
2 of amperage and time.

1 33. (Amended) The software module of claim 30[29] further comprising software to  
2 record the plurality of power usage profiles.

1 34. The software module of claim 29 further comprising a user interface software to  
2 enable programmability of conditions to adjust billing charges for usage of the electrically  
3 powered device including the first condition.

1           35.    The software module of claim 29, wherein the electrically powered device is a  
2 printer.

1           36.    (Amended) The software module of claim 30[29], wherein the electrically  
2 powered device is an appliance.

1           37.    The software module of claim 30 further comprising software to record the  
2 plurality of power usage profiles.

1           38.    The software module of claim 30, wherein each power usage profile is a function  
2 of amperage and time.

1           39.    The software module of claim 30 further comprising a user interface software to  
2 enable programmability of conditions to adjust billing charges for usage of the electrically  
3 powered device including the first condition.

1           40.    (Amended) The software module of claim 30, wherein the electrically powered  
2 device is [being one of] a printer[ and appliance].

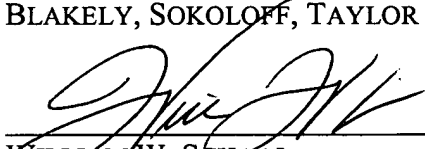
CONCLUSION

In view of the amendments and remarks made above, it is respectfully submitted that all pending claims are in condition for allowance, and such action is respectfully solicited.

Respectfully submitted,

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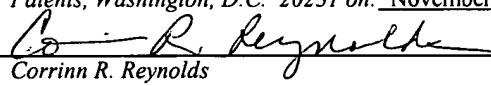
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